



UNITED STATES DEPARTMENT OF COMMERCE
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JWM
Paper Number 18

In re application of :
David A. Russo et al : DECISION ON
Serial No. 08/544,212 : PETITION
Filed: October 17, 1995 :
For: COATING COMPOSITION FOR GLASS :

This is a response to the REQUEST TO WITHDRAW NOTICE OF ABANDONMENT, filed January 21, 1998. The letter requests that the abandonment, as set forth in the Notice of Abandonment of November 18, 1997 for failure to timely respond to the final Office action of March 3, 1997, be withdrawn since the applicants did timely file a response, which included a NOTICE OF APPEAL (and petition for three month extension of time, on August 29, 1997. (Copy is attached to the instant petition.)

DECISION

The instant request has been accepted as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181(no fee) - no abandonment-in-fact. A review of the application record and the evidence presented reveals that the applicants' response (NOTICE OF APPEAL and petition for extension of time) was properly filed on August 29, 1997 as evidenced by a copy of a properly completed and PTO date stamped (August 29, 1997) postcard receipt supplied with the petition, and the actual NOTICE OF APPEAL which has now been matched with the file. Additionally, a check of the PTO financial records does indicate that the extension of time fee (three months) of \$930.00 and the Notice of Appeal fee (\$300.00) was collected on September 18, 1997 for a paper submitted on August 29, 1997. Therefore, the application was never in-fact abandoned.

Accordingly, the Notice of Abandonment of November 18, 1997 is hereby vacated, and the application is returned to pending status. The application shall be forwarded to the examiner for entry of the appellants' COMMUNICATION PURSUANT TO 37 C.F.R. 1.111 of March 24, 1998, and the request for filing a Continued Prosecution Application of March 30, 1998. An office action shall follow in due course.

The Petition is **GRANTED**.

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